

## URBAN RENEWAL

### **40:55C-41.1 Legislative findings and declarations**

The Legislature finds and declares that:

- a. The problems affecting the deteriorating urban areas of the State are of such severity that their resolution requires the concentrated investment of State, as well as local, federal and private resources;
- b. The objective of the State's urban policy is to concentrate public investment in distressed urban centers to assist the rehabilitation of the older municipalities of this State;
- c. State construction of new office buildings primarily for the use of State agencies in urban areas provides a unique source of investment capital which can be strategically utilized to redress the deterioration of those areas by serving as a catalyst for inducing other public and private investment therein and inducing the rental or occupancy of office facilities by private business concerns;

The areas designated by this act as State investment blighted areas are deemed to be areas within the meaning of Article VIII, Section III, paragraph 1 of the Constitution since they are located in older, economically declining urban areas in which only a combination of the financial incentives authorized by Article VIII, Section III, paragraph 1 and the joint use of State, private, local and federal financial resources can meet the constitutional objective of (1) improving the economic condition of the public, (2) eliminating the lack of use or underutilization of land by encouraging the proper utilization thereof, and (3) developing, stimulating, encouraging and increasing the employment of private capital and labor in redevelopment:

- e. A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this act, should afford maximum opportunity, consistent with the needs of the municipality as a whole, to the conservation or rehabilitation or redevelopment of areas by private enterprise; and
- f. All powers conferred by this act are for public uses and purposes for which public money may be expended and other powers exercised, and the necessity in the public interest for the provisions of this act is hereby declared as a matter of legislative determination.

P.L. 1983, c. 139, s. 1, eff. April 14, 1983.

### **40:55C-41.2. Findings, declarations**

The Legislature finds and declares that:

- a. The "Urban Renewal Corporation and Association Law of 1961," P.L. 1961, c. 40 (C. 40:55C-40 et seq.), commonly known as the Fox-Lance Law, and the "Urban Renewal Nonprofit Corporation Law of 1965," P.L. 1965, c. 95 (C. 40:55C-77 et seq.) have accomplished a great deal in helping municipalities embark upon rehabilitation and construction projects.

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- b. These projects have encouraged many businesses and industries to expand their operations in their municipalities without seeking to locate elsewhere.
- c. The abrupt termination of the benefits under these laws may cause severe dislocations, may result in the movement of commercial tenants to the suburbs and to out-of-State locations and cause a lack of additional capital investment in older urban cities thereby halting the beneficent effects of urban renewal.
- d. This termination may make the ownership of real property less desirable and may result in a substantial reduction of commercial ratables and a deterioration of existing buildings.
- e. To encourage the further investment of private capital and participation by private enterprise, it is in the best interests of the older cities that municipalities be granted the authority necessary to address this issue now in ways which will prevent its recurrence in the future.

P.L. 1986, c. 86, s. 1, eff. Aug. 14, 1986. 4

### **40:55C-44.2. "Urban renewal entity" defined**

"Urban renewal entity" shall mean any urban renewal corporation or urban renewal association as defined herein or in the act to which this act is a supplement. The term "entity" when used in P.L. 1961, c. 40 (C. 40:55C-40 et seq.) shall be understood to be a contraction of the term "urban renewal entity."

Amended by P. L. 1986, c. 86, s. 2, eff. Aug. 14, 1986.

### **40:55C-44.1. "Urban renewal association" defined**

"Urban renewal association" means any unincorporated entity including but not limited to a partnership, limited partnership, limited partnership association or unincorporated association organized in accordance with this act or the act to which this is a supplement to acquire, construct, operate and maintain a project hereunder, or to acquire, operate and maintain a project constructed by an urban renewal corporation or other urban renewal association; and the term "association" when used in this act shall be understood to be a contraction of the term "urban renewal association" except when the context indicates otherwise.

P.L. 1967, c. 114, s. 3, eff. June 19, 1967.

### **40:55C-44.2. "Urban renewal entity" defined**

"Urban renewal entity" shall mean any urban renewal corporation or urban renewal association as defined herein or in the act to which this act is a supplement. The term "entity" when used in P.L. 1961, c. 40 (C. 40:55C-40 et seq.) shall be understood to be a contraction of the term "urban renewal entity."

Amended by L. 1986, c. 86, s. 2, eff. Aug. 14, 1986.

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### **40:55C-45.1. "State investment blighted area" defined**

"State investment blighted area" means an area in any municipality which is unlikely to be developed without State or federal assistance, is declared to be a State investment blighted area in accordance with the provisions of section 3 of this amendatory and supplementary act and wherein there exists any of the conditions enumerated in section 1 of P.L. 1949, c. 187 (C. 40:55-21.1) or any of the following conditions:

- a. Deterioration of industrial, manufacturing or commercial buildings or housing;
- b. Unproductive utilization of property; or
- c. Where the infusion of State, federal and private capital will assist in the alleviation of blighted area in the municipality as defined by section 1 of P.L. 1949, c. 187 (C. 40:55-21.1).

P.L. 1983, c. 139, s. 2, eff. April 14, 1983.

### **40:55C-46a. "State investment project" defined**

"State investment project" means an improvement, including the construction of buildings and related facilities, landscaping, construction of streets and access roads and utilities in a State investment blighted area or a blighted area which has:

- a. A commitment for the lease or other disposition of more than 50% of the rentable area in the project to State agencies;
- b. A commitment or conditional commitment for federal financial assistance under the Urban Development Action Grant Program established pursuant to 42 U.S.C. s. 5318 or laws amendatory or supplementary thereto; and
- c. An agreement for cooperation with the New Jersey Building Authority established pursuant to P.L. 1981, c. 120 (C. 52:18A-78.1 et seq.), or other State agency responsible for the construction or lease of buildings for office space and related facilities principally for the use of State agencies.

L.1983, c. 139, s. 4, eff. April 14, 1983.

### **40:55C-46.1. "Redevelopment" defined**

As used in this act, "redevelopment" means, in the case of a residential condominium project to be undertaken pursuant to this amendatory and supplementary act, the process of repairing, renovating, restoring or reconstructing those elements of any buildings or structures which have fallen into decay and disuse so that such buildings or structures may be utilized for residential use, or the construction of new residential condominium units; provided that:

- a. The portion of the total project cost attributable to redevelopment, as certified by a licensed architect, is 20% or more of the assessed valuation of the land and

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improvements to be redeveloped as established in the tax year immediately prior to the undertaking of the project; and

- b. The land and improvements after redevelopment are all subject to a master deed pursuant to P.L. 1969, c. 257 (C. 46:8B-1 et seq.).

P.L. 1978, c. 93, s. 2, eff. July 31, 1978. Amended by L. 1983, c. 139, s. 10, eff. April 14, 1983; L. 1985, c. 138, s. 1, eff. April 12, 1985.

### **40:55C-52.1. Transfer of housing project by urban renewal corporation or association to limited-dividend nonprofit housing corporation or association**

Any urban renewal corporation or association which owns, manages and controls a housing project, other than condominium housing, pursuant to the "Urban Renewal Corporation and Association Law of 1961," P.L.1961, c. 40 (C. 40:55C-40 et seq.) may at any time transfer title to the property and improvements included in that project to a housing corporation or housing association established and operating under the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P.L.1949, c. 184 (C. 55:16-1 et seq.). The transfer agreement shall provide for the assumption by the housing corporation or housing association of any outstanding debts or obligations incurred by the urban renewal corporation or association with respect to the housing project, including the payment of principal and interest on any bonds or other obligations outstanding with respect thereto. If, prior to the transfer, the housing project was exempt from taxation pursuant to a financial agreement entered into between the urban renewal corporation or association and the municipality under section 26 of P.L.1961, c. 40 (C. 40:55C-65), the transfer agreement may provide for the continuation of the tax exemption pursuant to section 18 of P.L.1949, c. 184 (C. 55:16-18), upon terms and conditions mutually agreeable to the housing corporation or housing association and the municipality. The period of continued tax exemption shall not exceed a time equal to 50 years less the period during which the project was exempt pursuant to the financial agreement entered into between the urban renewal corporation or association and the municipality. During the period of continued tax exemption the housing corporation or housing association shall pay with respect to the housing project an annual service charge to the municipality pursuant to section 18 of P.L.1949, c. 184 (C. 55:16-18) which shall not be less than the amount of the annual service charge with respect to the project which was required to be paid to the municipality pursuant to the financial agreement entered into between the urban renewal corporation or association and the municipality under section 26 of P.L.1961, c. 40 (C. 40:55C-65).

P.L. 1981, c. 506, s. 1, eff. Jan. 12, 1982.

### **40:55C-53.1. Declaration of area as state investment blighted area; qualifications**

- a. A municipality, by resolution of its governing body, may declare an area a State investment blighted area if it is an area as defined in section 2 of this amendatory and supplementary act, and

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- (1) The municipality qualifies for State aid under P.L. 1978, c. 14 (C. 52:27D-178 et seq.);
- (2) The area has been determined to be an area in need of rehabilitation in accordance with standards and procedures set forth in P.L. 1977, c. 12 (C. 54:4-3.95 et seq.);
- (3) Which has been designated by the New Jersey Building Authority established pursuant to P.L. 1981, c. 120 (C. 52:18A-78.1 et seq.), or by any agency or authority of this State, either for the construction or the lease wholly or in part, of one or more buildings for office space and related facilities to be constructed by an urban renewal entity or a State agency primarily for use by State agencies, as defined in section 2 of P.L. 1981, c. 120 (C. 52:18A-78.2); and
- (4) In which there is, or is to be located, a project approved or conditionally approved for financial assistance by the federal government as an Urban Development Action Grant pursuant to 42 U.S.C. s. 5318 or laws amendatory or supplementary thereto.

b. The provisions of sections 2 through 11 of P.L. 1949, c. 187 (C. 40:55-21.2 through 40:55-21.11) shall not apply to the municipal determination under this section.

P. L. 1983, c. 139, s. 3, eff. April 14, 1983.

### **40:55C-55.1. Operation as unincorporated association; certificate; contents**

Any two or more persons may qualify to operate as a partnership, limited partnership, limited partnership association or other unincorporated association or entity by filing such certificate or statement as may be required by any statute governing the form selected and in addition to any other requirement contained therein incorporate the following provisions:

- (a) The name of the association or the trade name under which the association shall conduct its business shall include the words "urban renewal" .
- (b) The object for which it is formed shall be to operate under this act or the act to which this is a supplement and to initiate and conduct projects for the clearance, replanning, development and redevelopment of blighted areas or areas adjacent thereto or State investment blighted areas in municipalities and, when so authorized by financial agreement with a municipality pursuant to this act or the act to which this is a supplement, to acquire, plan, develop, construct, alter, maintain or operate housing, business, industrial, commercial, cultural or recreational projects or any combination of any two or more such types of improvement in a single project, under such conditions as to use, ownership, management and control as shall be regulated pursuant to this act or the act to which this is a supplement.
- (c) A provision that so long as the association is obligated under a financial agreement with a municipality made pursuant to this act or the act to which this is a supplement, it shall engage in no business other than the ownership, development, redevelopment, operation and management of a single project.

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- (d) A declaration that the association has been organized to serve a public purpose, that its operations shall be directed toward providing for and making possible the clearance, replanning, development or redevelopment of blighted areas or areas adjacent thereto or State investment blighted areas or the acquisition, management and operation of a project hereunder; and that it shall, as provided herein, be subject to regulation by the municipality in which its project is situated, and to a limitation on profits for so long as it remains the owner of a project subject to the provisions of this act or the act to which this is a supplement, or is by contract charged with responsibility for administration and management of a condominium or condominium property pursuant to the provisions of P.L.1969, c. 257 (C. 46:8B-1 et seq.).
- (e) A provision that the association shall not voluntarily transfer the project undertaken by it under the terms of this act or the act to which this is a supplement, until it has first removed both itself and the project from all restrictions hereunder in the manner hereinafter set forth; but with a proviso that the foregoing restriction shall not be applied to prevent the transfer of a project to another urban renewal association or corporation which, with the consent of the municipality in which the project is located, shall assume all the contractual obligations of the transferor association or corporation under its financial agreement with the said municipality.

If the association shall not by reason of any other law be required to file a certificate or statement, then the said association in addition to the requirements set forth above shall file a certificate in the office of the clerk of the county in which its principal place of business is located setting forth its full name and the name under which it shall do business, its duration, the location of its principal offices and the name of a person or persons upon whom service may be effected and the name and address and extent of each person having any ownership or proprietary interest therein.

P.L. 1967, c. 114, s. 13, eff. June 19, 1967. Amended by L.1977, c. 179, s. 1, eff. Aug. 18, 1977; L.1978, c. 93, s. 7, eff. July 31, 1978; L.1983, c. 139, s. 8, eff. April 14, 1983.

### **40:55C-55.2. Powers of association**

Each urban renewal association qualifying under this act, shall have and may exercise such of the powers conferred by statute or by law on the form of entity selected and as shall be necessary for the operation of the business of such association and as shall be consistent with the provisions of this act or the act to which this is a supplement and shall and may exercise, also, the powers conferred by this act or the act to which this is a supplement but so long as it shall be operated under this act or the act to which this is a supplement, it shall be subject to the restrictions contained therein. If such association shall have freed itself and its project from the restrictions of this act or the act to which this is a supplement and its financial agreement with the municipality, in the manner provided herein or in the act to which this is a supplement, it shall no longer exercise any of the special powers or be subject to any of the restrictions contained in this act or the act to which this is a supplement.

P.L. 1967, c. 114, s. 14, eff. June 19, 1967.

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### 40:55C-58.1. Condominium tax exemption

a. Notwithstanding anything to the contrary contained in P.L. 1961, c. 40 (C. 40:55C-40 et seq.), when an urban renewal corporation or an urban renewal association, being a party to a financial agreement prepared in compliance with sections 20 to 25, inclusive, of said act (C. 40:55C-59 to 40:55C-64), files a master deed pursuant to P.L. 1969, c. 257 (C. 46:8B-1 et seq.) creating a condominium, whether residential or commercial, as to all or a portion of a project which has been approved for tax exemption under section 19 of said act (C. 40:55C-58) and, if appropriate, subsection b. of this section, each unit of the condominium whether owned by the urban renewal corporation, urban renewal association or a successor unit purchaser of either, shall continue to be subject to the provisions of said act, as modified in this section, and the tax exemption previously approved under the provisions of said act with respect to the property converted to condominium ownership shall be unaffected by the recording of the master deed or any subsequent deed conveying the condominium unit and its appurtenant interest in the common elements. Subject to the provisions and exceptions of subsections b. and c., as appropriate, of this section, in an instance of housing, a tax exemption granted pursuant to this act to any single condominium unit shall continue in effect regardless of whether or not the owner of such unit, including an urban renewal corporation or association, personally resides therein. A tax exemption shall continue as to the condominium unit and its appurtenant undivided interest in the common elements subject to all of the following:

- (1) For the purpose of determining the annual service charge pursuant to section 26 of P.L. 1961, c. 40 (C. 40:55C-65) when used with respect to any condominium project, "annual gross revenue" shall mean the amount equal to the annual aggregate constant payments to principal and interest, assuming a purchase money mortgage encumbering the condominium unit to have been in an original amount equal to the initial value of the unit with its appurtenant interest in the common elements as stated in the master deed, if unsold by the urban renewal corporation or association, or, if the unit is held by a unit purchaser, from time to time, the most recent true consideration paid for a deed to the condominium unit in a bona fide arm's length sale transaction, but not less than the initial assessed valuation of the condominium unit assessed at 100% of true value, plus the total amount of common expenses charged to the unit pursuant to the bylaws of the condominium association. The constant payments to principal and interest shall be calculated by assuming a loan amount as aforesaid at the prevailing lawful interest rate for mortgage financing on comparable properties within the municipality as of the date of recording of the unit deed, for a term equal to the full term of the exemption from taxation stipulated in the financial agreement.
- (2) There is expressly excluded from calculation of annual gross revenue as defined in section 12 of P.L. 1961, c. 40 (C. 40:55C-51) and from net profit as defined in section 11 of P.L. 1961, c. 40 (C. 40:55C-50) for the purpose of determining compliance with section 27 of P.L. 1961, c. 40 (C. 40:55C-66) any gain realized by the urban renewal corporation or urban renewal association on the sale of any condominium unit, whether or not taxable under applicable federal or State laws.
- (3) The conveyance of a condominium unit which is subject to the provisions of a financial agreement to a bona fide unit purchaser grantee shall not require consent or approval of the municipality, and the grantee shall, by virtue hereof, acquire title to

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the unit subject to the requirement for payment of the annual service charge and other provisions thereof expressly applicable to condominium unit purchasers under the provisions of said act, and the exemption from taxation as to such condominium unit shall continue unaffected by such transfer, in an instance of housing, subject to the provisions and exceptions of subsections b. and c., as appropriate, of this section, regardless of whether or not the unit owner personally resides therein.

b. Any application approved by resolution pursuant to section 19 of P.L. 1961, c. 40 (C. 40:55C-58) for a tax exemption for residential condominium units shall not take effect until approved by the chief executive officer of the municipality.

c. The governing body of a municipality may, by resolution subject to the provisions of subsection b. of this section, determine to:

- (1) Only grant a tax exemption for residential condominium units to those units in which the owners personally reside; or
- (2) Increase the annual service charge paid in lieu of taxes by a condominium unit owner who does not reside within the unit owned, by 1% over that permitted pursuant to section 26 of P.L. 1961, c. 40 (C. 40:55C-65).

P.L. 1978, c. 93, s. 1; amended 1983,c.139,s.11; 1985,c.138,s.2; 1987, c.443, s. 1.

### **40:55C-58.2. Commercial, industrial buildings**

In the instance of a multi-occupant commercial or industrial building operated as a condominium or sold by three dimensional conveyances, where the building is developed, sold, managed or operated by an urban renewal entity, the building and its occupants' space shall qualify as tax exempt under P.L. 1961, c. 40 (C. 40:55C-40 et seq.) when the governing body approves an application and a financial agreement which authorizes conveyances of units therein pursuant to P.L. 1978, c. 93 (C. 40:55C-58.1 et seq. ), assigning proportionate interests in the tax exempt property. The condominium or three dimensional purchasers of units shall not be required to be urban renewal entities.

P.L. 1985, c. 138, s. 4, eff. April 12, 1985.

### **40:55C-65.1. Minimum annual service charge**

Any other provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.) to the contrary notwithstanding, whenever the minimum amount of the annual service charge for the project, as determined pursuant to this section, shall exceed the amount which otherwise would be due as the annual service charge, the amount determined pursuant to this section shall be deemed to be the amount of the annual service charge.

For any project, the minimum annual service charge shall be the amount of the total taxes assessed against all real property in the area covered by the project in the calendar year

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immediately preceding the year in which that area was acquired by the municipality or its agency, or by the private or public owner from whom the urban renewal entity acquired the land.

P.L. 1986, c. 86, s. 10, eff. Aug. 14, 1986.

### **40:55C-67.1. New financial agreement**

Every urban renewal entity which is a party to a financial agreement entered into pursuant to the provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.), which is in force and effect on the date of the enactment of this amendatory and supplementary act, shall have the right to apply in writing to the municipality to request a new financial agreement which would extend the term of the existing tax exemption for that project for a period of 15 years. The application shall be in the form prescribed by the municipality and shall include those certified facts and data the municipality may require, including, but not limited to:

- a. A description of the project, including the land area and improvements thereon which are to be subject to the new financial agreement.
- b. A detailed explanation as to the need for the extension of the period of exemption, including the financial impact of the extension.
- c. A fiscal plan outlining the expected financial performance of the project for the period of the extension, including projections of annual gross revenue, estimated expenses for operations and maintenance, estimated amounts of capital investment, payments for interest and principal on outstanding debt and estimated payments of annual service charges and land taxes to the municipality.
- d. A detailed statement of the charges imposed upon and payments made by the project, for annual services charges, land taxes and any penalties and interest imposed thereon, and any other taxes levied by the municipality, for the entire term of the initial financial agreement, showing the exact amount of any arrears owed to the municipality by the project, with a schedule as to when such arrears are to be paid.
- e. A general description of the capital improvements to be made pursuant to section 8 of this amendatory and supplementary act, their estimated cost and the projected dates when the entity intends to make the required investments in those capital improvements to the project.

An application for an extension shall be submitted to the municipality not more than one year before the date on which the financial agreement that is in force and effect on the date of the enactment of this amendatory and supplementary act terminates nor shall it be submitted to the municipality less than six months before the date of the termination of that financial agreement; except that any entity which is a party to a financial agreement that is scheduled to terminate on or before January 1, 1987 may submit an application for an extension at any time prior to the date on which that financial agreement terminates.

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The application, together with a copy of the proposed new financial agreement, shall be addressed and submitted to the mayor of the municipality. Within 30 days of the receipt of the application and the copy of the proposed new financial agreement, which has been deemed to be complete and proper as to form by the chief legal officer of the municipality, the mayor shall submit it to the governing body along with his recommendations. The governing body shall, by resolution, approve or disapprove the application. In the event of disapproval, the governing body may suggest any changes it may deem necessary in order to secure its approval. An application may be revised and resubmitted. No application may be considered or approved for any project, however, if the tax collector of the municipality shall determine that there exist any financial arrears or outstanding financial obligations owed to the municipality for that project under the terms of the financial agreement in force and effect on the date of the enactment of this amendatory and supplementary act.

P.L. 1986, c. 86, s. 7, eff. Aug. 14, 1986.

### **40:55C-67.2. Investment in capital improvements**

No application for an extension shall be approved unless the application shall provide that the entity shall, during the extended period, invest in capital improvements to the project in an amount equal to not less than 5% of total project cost during each five year segment of the extended period, except that the investment for the third five year segment of the extended period shall be made no later than the twelfth year of the extended period.

Every capital improvement undertaken pursuant to the provisions of this section shall be reported to the municipality, along with a certified financial statement as to its cost, no later than 90 days after its completion. As used in this section, the term "completion of a capital improvement" means the date on which the enforcing agency pursuant to P.L. 1975, c. 217 (C. 52:27D-119 et seq.) determines the capital improvement to have been completed. The term "cost of capital improvement," as used in this section, means the aggregate total of the following items: a. All fees paid or due to architects, engineers and attorneys by the entity for any work in connection with the capital improvement; b. All surveying and testing charges associated with the capital improvement; c. All actual costs of the construction of the capital improvement, as certified to by the architect responsible for supervising the construction, including but not limited to all aspects of site preparation as well as all aspects of the construction of the actual capital improvement; d. All costs of insurance, financing and interest incurred in relation to the capital improvement; and e. The developer's overhead, calculated at the rate of 5% of the aggregate total of the amounts reported and certified pursuant to subsections a. through d. of this section. The cost of the capital improvement shall be certified to the municipality by a certified public accountant on behalf of the entity not more than 90 days following the date of completion of the capital improvement. No capital improvement shall be deemed to have been made during the extended period if the permit for that improvement was issued by the enforcing agency pursuant to P.L. 1975, c. 217 (C. 52:27D-119 et seq.) prior to the date on which the extension, granted by the municipality pursuant to section 11 of this amendatory and supplementary act, shall commence.

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P.L. 1986, c. 86, s. 8, eff. Aug. 14, 1986.

### **40:55C-67.3. Mandatory contract provisions**

Every extension granted by a municipality pursuant to the provisions of section 11 of this amendatory and supplementary act shall be evidenced by a new financial agreement between the municipality and the entity. The agreement shall be prepared as to form by the entity, subject to the approval of the municipality, and submitted as part of the entity's application for that extension pursuant to section 7 of this amendatory and supplementary act.

The new financial agreement shall be in the form of a contract requiring full performance and shall have a term of 15 years, commencing on the day following the day on which the financial agreement in force and effect on the date of enactment of this amendatory and supplementary act terminates.

The new financial agreement shall include, but not be limited to, the following provisions:

- a. That the profits of and dividends payable by the entity shall be limited as provided by P.L. 1961, c. 40 (C. 40:55C-40 et seq.);
- b. That the improvements to the project which were exempt from taxation under the terms of the financial agreement in force and effect on the date of the enactment of this amendatory and supplementary act shall continue to be exempt during the period of extension;
- c. That the entity shall make timely payments of both the annual service charge and land taxes as are provided for by P.L. 1961, c. 40 (C. 40:55C-40 et seq.) or this amendatory and supplementary act;
- d. That the entity shall submit annually within 90 days after the close of its fiscal year, a certified audit report of its financial condition to the mayor and governing body of the municipality;
- e. That the entity shall, upon request, permit inspection of property, equipment, buildings and other facilities of the entity and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the municipality;
- f. That in the event of any dispute between the parties, the matters in controversy shall be resolved by arbitration in the manner provided therein;
- g. That operation under the financial agreement shall be terminable by the entity in the manner provided by section 28 of P.L. 1961, c. 40 (C. 40:55C-67);
- h. That the entity shall at all times prior to the termination of the agreement remain bound by the provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.) and the provisions of this amendatory and supplementary act;
- i. That the provisions of sections 21, 22 and 23 of P.L. 1961, c. 40 (C. 40:55C-60 through 62, inclusive), as are applicable to the period of extension, shall remain in force and effect;

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- j. That the entity shall make the capital investments and improvements to the project during the term of the agreement as are required by the provisions of section 8 of this amendatory and supplementary act and set forth in the application for the extension pursuant to section 7 of this amendatory and supplementary act;
- k. That the entity shall in an accurate and timely manner report to the municipality on all capital improvements completed during the extended period, including certified statements of cost;
- l. That all annual service charges shall be paid quarterly on the same due dates as required by general law for the payment of real property taxes, and that in the event of any delinquency in any payment due to the municipality, the municipality shall impose penalties and interest charges on the delinquent amounts at the same rates as are then in force and effect for penalties and interest for delinquent real property taxes; and
- m. That for all obligations to the municipality arising out of the project, including the annual service charge, any taxes assessed against any property or land, and any interest and penalties pursuant thereto, the municipality shall have the same rights, priorities, duties and powers of enforcement and collection as may be provided in general law for the collection and enforcement of real property taxes.

P.L. 1986, c. 86, s. 9, eff. Aug. 14, 1986.

### **40:55C-67.4. 15-year extension**

Any other provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.) to the contrary notwithstanding, a municipality may grant an extension of the period of exemption for any project for which an executed financial agreement, authorized pursuant to the provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.), is in force and effect on the date of the enactment of this amendatory and supplementary act. Such extension shall be for a period of 15 years, commencing on the day following the termination of the financial agreement in force and effect on the date of the enactment of this amendatory and supplementary act. At the conclusion of that period of extension, no further extension shall be permitted.

Any such extension shall be granted at the sole discretion of the municipality and shall be subject to the provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.) and the provisions of this amendatory and supplementary act. No extension shall be granted to any project for which an executed financial agreement, authorized pursuant to the provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.), is not in force and effect on the date of the enactment of this amendatory and supplementary act.

P.L. 1986, c. 86, s. 11, eff. Aug. 14, 1986.

### **40:55C-67.5. Criteria for 15-year extension**

Any other provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.) to the contrary notwithstanding, a municipality may grant an additional period of exemption of 15 years for any project which meets the requirements of this section. In order to qualify for

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consideration for approval by the municipality pursuant to this section, the project must meet all of the following:

- a. The project must be the subject of an executed financial agreement authorized pursuant to the provisions of P.L. 1961, c. 40 (C. 40:55C-40 et seq.), the termination date of which occurs after December 31, 1985 and before January 1, 1987.
- b. Prior to December 31, 1986, the project must make written application to the municipality for the additional period of exemption. The application must be in the same form and subject to the same requirements as set forth in section 7 of this amendatory and supplementary act, except for the time for submission of the application.

Any project qualified for consideration pursuant to this section for which an application is approved by the municipality in accordance with this amendatory and supplementary act shall be evidenced by a new financial agreement between the municipality and the entity. That agreement shall be in the same form and subject to the same conditions as set forth in section 9 of this amendatory and supplementary act, except that the term of the new agreement shall be for 15 years, beginning on the day following the approval by the municipality.

Any project for which an additional period of exemption is granted pursuant to this section shall also be subject to the same requirements for any project for which an extended period of exemption is approved as are set forth in section 3, 8 and 10 of this amendatory and supplementary act.

P.L. 1986, c. 86, s. 18, eff. Aug. 14, 1986.

### **40:55C-81.1. "Entity" defined**

"Urban renewal entity" means any urban renewal nonprofit corporation as defined herein or in this amendatory and supplementary act. The term "entity" when used in P.L. 1965, c. 95 (C. 40:55C-77 et seq.) or in this amendatory and supplementary act shall be understood to be a contraction of the term "urban renewal entity."

P. L. 1986, c. 86, s. 12, eff. Aug. 14, 1986.

### **40:55C-97.1. Determination of annual service charge**

Any other provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.) to the contrary notwithstanding, whenever the minimum amount of the annual service charge for the project, as determined pursuant to this section, shall exceed the amount which otherwise would be due as the annual service charge, the amount determined pursuant to this section shall be deemed to be the amount of the annual service charge.

For any project, the minimum annual service charge shall be the amount of the total taxes assessed against all real property in the area covered by the project in the calendar year immediately preceding the year in which that area was acquired by the municipality or its

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agency, or by the private or public owner from whom the urban renewal entity acquired the land.

P.L. 1986, c. 86, s. 16, eff. Aug. 14, 1986.

### **40:55C-99.1. Application for extension**

Every urban renewal entity which is a party to a financial agreement entered into pursuant to the provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.), which is in force and effect on the date of the enactment of this amendatory and supplementary act, shall have the right to apply in writing to the municipality to request a new financial agreement which would extend the term of the existing tax exemption for that project for a period of 15 years. The application shall be in the form prescribed by the municipality and shall include those certified facts and data the municipality may require, including, but not limited to:

- a. A description of the project, including the land area and improvements thereon which are to be subject to the new financial agreement.
- b. A detailed explanation as to the need for the extension of the period of exemption, including the financial impact of the extension.
- c. A fiscal plan outlining the expected financial performance of the project for the period of the extension, including projections of annual gross revenue, estimated expenses for operations and maintenance, estimated amounts of capital investment, payments for interest and principal on outstanding debt and estimated payments of annual service charges and land taxes to the municipality.
- d. A detailed statement of the charges imposed upon and payments made by the project, for annual services charges, land taxes and any penalties and interest imposed thereon, and any other taxes levied by the municipality, for the entire term of the initial financial agreement, showing the exact amount of any arrears owed to the municipality by the project, with a schedule as to when such arrears are to be paid.
- e. A general description of the capital improvements to be made pursuant to section 14 of this amendatory and supplementary act, their estimated cost and the projected dates when the entity intends to make the required investments in those capital improvements to the project.

An application for an extension shall be submitted to the municipality not more than one year before the date on which the financial agreement that is in force and effect on the date of the enactment of this amendatory and supplementary act terminates nor shall it be submitted to the municipality less than six months before the date of the termination of that financial agreement; except that any entity which is a party to a financial agreement that is scheduled to terminate on or before January 1, 1987 may submit an application for an extension at any time prior to the date on which that financial agreement terminates.

The application, together with a copy of the proposed new financial agreement, shall be addressed and submitted to the mayor of the municipality. Within 30 days of the receipt of the application and the copy of the proposed new financial agreement, which has been

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deemed to be complete and proper as to form by the chief legal officer of the municipality, the mayor shall submit it to the governing body along with his recommendations. The governing body shall, by resolution, approve or disapprove the application. In the event of disapproval, the governing body may suggest any changes it may deem necessary in order to secure its approval. An application may be revised and resubmitted. No application may be considered or approved for any project, however, if the tax collector of the municipality shall determine that there exist any financial arrears or outstanding financial obligations owed to the municipality for that project under the terms of the financial agreement in force and effect on the date of the enactment of this amendatory and supplementary act.

P.L. 1986, c. 86, s. 13, eff. Aug. 14, 1986.

### **40:55C-99.2. 5% investment obligation**

No application for an extension shall be approved unless the application shall provide that the entity shall, during the extended period, invest in capital improvements to the project in an amount equal to not less than 5% of total project cost during each five year segment of the extended period, except that the investment for the third five year segment of the extended period shall be made no later than the twelfth year of the extended period.

Every capital improvement undertaken pursuant to the provisions of this section shall be reported to the municipality, along with a certified financial statement as to its cost, no later than 90 days after its completion. As used in this section, the term "completion of a capital improvement" means the date on which the enforcing agency pursuant to P.L. 1975, c. 217 (C. 52:27D-119 et seq.) determines the capital improvement to have been completed. The term "cost of capital improvement," as used in this section, means the aggregate total of the following items: a. All fees paid or due to architects, engineers and attorneys by the entity for any work in connection with the capital improvement; b. All surveying and testing charges associated with the capital improvement; c. All actual costs of the construction of the capital improvement, as certified to by the architect responsible for supervising the construction, including but not limited to all aspects of site preparation as well as all aspects of the construction of the actual capital improvement; d. All costs of insurance, financing and interest incurred in relation to the capital improvement; and e. The developer's overhead, calculated at the rate of 5% of the aggregate total of the amounts reported and certified pursuant to subsections a. through d. of this section. The cost of the capital improvement shall be certified to the municipality by a certified public accountant on behalf of the entity not more than 90 days following the date of completion of the capital improvement. No capital improvement shall be deemed to have been made during the extended period if the permit for that improvement was issued by the enforcing agency pursuant to P.L. 1975, c. 217 (C. 52:27D-119 et seq.) prior to the date on which the extension, granted by the municipality pursuant to section 17 of this amendatory and supplementary act, shall commence.

P.L. 1986, c. 86, s. 14, eff. Aug. 14, 1986.

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### 40:55C-99.3. Financial agreement requirements

Every extension granted by a municipality pursuant to the provisions of section 17 of this amendatory and supplementary act shall be evidenced by a new financial agreement between the municipality and the entity. The agreement shall be prepared as to form by the entity, subject to the approval of the municipality, and submitted as part of the entity's application for that extension pursuant to section 13 of this amendatory and supplementary act.

The new financial agreement shall be in the form of a contract requiring full performance and shall have a term of 15 years, commencing on the day following the day on which the financial agreement in force and effect on the date of enactment of this amendatory and supplementary act terminates.

The new financial agreement shall include, but not be limited to, the following provisions:

- a. That the profits of and dividends payable by the entity shall be limited as provided by P.L. 1965, c. 95 (C. 40:55C-77 et seq.);
- b. That the improvements to the project which were exempt from taxation under the terms of the financial agreement in force and effect on the date of the enactment of this amendatory and supplementary act shall continue to be exempt during the period of extension;
- c. That the entity shall make timely payments of both the annual service charge and land taxes as are provided for by P.L. 1965, c. 95 (C. 40:55C-77 et seq.) or this amendatory and supplementary act;
- d. That the entity shall submit annually within 90 days after the close of its fiscal year, a certified audit report of its financial condition to the mayor and governing body of the municipality;
- e. That the entity shall, upon request, permit inspection of property, equipment, buildings and other facilities of the entity and also permit examination and audit of its books, contracts, records, documents and papers by authorized representatives of the municipality;
- f. That in the event of any dispute between the parties, the matters in controversy shall be resolved by arbitration in the manner provided therein;
- g. That operation under the financial agreement shall be terminable by the entity in the manner provided by section 23 of P.L. 1965, c. 95 (C. 40:55C-99);
- h. That the entity shall at all times prior to the termination of the agreement remain bound by the provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.) and the provisions of this amendatory and supplementary act;
- i. That the provisions of sections 17, 18 and 19 of P.L. 1965, c. 95 (C. 40:55C-93 through 95, inclusive), as are applicable to the period of extension, shall remain in force and effect;
- j. That the entity shall make the capital investments and improvements to the project during the term of the agreement as are required by the provisions of section 14 of

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- this amendatory and supplementary act and set forth in the application for the extension pursuant to section 13 of this amendatory and supplementary act;
- k. That the entity shall in an accurate and timely manner report to the municipality on all capital improvements completed during the extended period, including certified statements of cost;
  - l. That all annual service charges shall be paid quarterly on the same due dates as required by general law for the payment of real property taxes, and that in the event of any delinquency in any payment due to the municipality, the municipality shall impose penalties and interest charges on the delinquent amounts at the same rates as are then in force and effect for penalties and interest for delinquent real property taxes; and
  - m. That for all obligations to the municipality arising out of the project, including the annual service charge, any taxes assessed against any property or land, and any interest and penalties pursuant thereto, the municipality shall have the same rights, priorities, duties and powers of enforcement and collection as may be provided in general law for the collection and enforcement of real property taxes.

P.L. 1986, c. 86, s. 15, eff. Aug. 14, 1986.

### **40:55C-99.4. Exemption extension**

Any other provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.) to the contrary notwithstanding, a municipality may grant an extension of the period of exemption for any project for which an executed financial agreement, authorized pursuant to the provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.), is in force and effect on the date of the enactment of this amendatory and supplementary act. Such extension shall be for a period of 15 years, commencing on the day following the termination of the financial agreement in force and effect on the date of the enactment of this amendatory and supplementary act. At the conclusion of that period of extension, no further extension shall be permitted.

Any such extension shall be granted at the sole discretion of the municipality and shall be subject to the provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.) and the provisions of this amendatory and supplementary act. No extension shall be granted to any project for which an executed financial agreement, authorized pursuant to the provisions of P.L. 1965, c. 95 (C. 40:55C-77 et seq.), is not in force and effect on the date of the enactment of this amendatory and supplementary act.

P.L. 1986, c. 86, s. 17, eff. Aug. 14, 1986.